



Republican Policy Committee

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Missile Defense Issues To Be Debated on FY 1996 DoD Authorization Bill

The Missile Defense Act of 1995

In 1991 the United States Senate passed the Missile Defense Act (MDA), which endorsed the goal of deploying anti-ballistic missile defenses to protect U.S. citizens, American forces overseas, friends, and allies from ballistic missile attacks. The Act was part of the FY 1992 Department of Defense Authorization Bill.

This year's DoD Authorization bill, S. 1026, includes legislation that will replace the 1991 MDA with a new act, called the Missile Defense Act of 1995. The Missile Defense Act of 1995 (Subtitle C of Title II of S. 1026) is intended to respond more completely to the challenges and opportunities of the post-Cold War era, and chart a clearer course for missile defense. Moreover, despite arguments made by opponents, **the 1995 Act does not advocate or require abrogation or violation of the 1972 Anti-Ballistic Missile (ABM) Treaty.**

Findings

The philosophical premise for the Act is outlined in the findings contained in Section 232, which states that:

- The threat posed by ballistic missiles of all ranges and cruise missiles is becoming more significant, both quantitatively and qualitatively.
- Defenses against ballistic and cruise missiles will reduce incentives for the acquisition and use of such missiles and, in general, will provide a stabilizing force in the post-Cold War era.
- The ABM Treaty is technologically and strategically outdated. The treaty as it currently stands prevents the United States from countering new threats and may even inhibit the United States and Russia from establishing a less adversarial strategic relationship based on mutual security rather than mutual threats.

The remaining sections (233-241) of the MDA can be divided into two broad categories, missile defense policy and policy regarding the ABM Treaty.

Missile Defense Policy

Section 233 of the Act provides a general statement of policy, and is followed by sections dealing with each subject area in detail.

- **Section 234** establishes a policy and core program to accelerate and focus U.S. Theater Missile Defense (TMD) programs and activities. The "Core TMD program" consists of:
 - the Patriot PAC-3 limited area defense system;
 - the Theater High Altitude Area Defense (THAAD) System, a ground-based, air transportable interceptor system to provide wide-area defense capability by intercepting longer range theater ballistic missiles at higher altitudes and greater distances;
 - the Navy Lower Tier System, a sea-based system providing limited area defense; and,
 - the Navy Upper Tier System, also a sea-based system, but one that could provide extensive theater-wide protection, by intercepting theater ballistic missiles outside the atmosphere, as well as in the ascent and descent phases of a ballistic missile's flight.

This section also terminates two unfocused and relatively low-priority systems (the airborne Boost-Phase Interceptor, and the Corps SAM, intended to protect Army or Marine forces against theater ballistic missiles and advanced cruise missiles) and calls on the Department of Defense to satisfy these missions in a more cost effective manner. Stringent and explicit criteria for establishing new Core TMD systems also are set forth.

- **Section 235** establishes a policy to deploy a multiple-site, ground-based National Missile Defense (NMD) system by 2003. Such a deployment, which would require amendment of the ABM Treaty, will be needed if the continental United States, Alaska and Hawaii are to be defended against limited ballistic missile attack. A single deployment site, as currently permitted by the ABM Treaty, would be incapable of defending all U.S. territory. The Secretary of Defense is required to use streamlined acquisition procedures and other cost-saving measures to ensure that an NMD system can be deployed in an efficient and timely manner.
- **Section 236** establishes a Cruise Missile Defense Initiative (CMDI), a significant departure from the MDA of 1991 which dealt only with ballistic missile defense. The CMDI requires the Secretary of Defense to elevate the priority attached to cruise missile defense and to ensure that these efforts are coordinated and focused within the Department of Defense.

Policy Regarding the Anti-Ballistic Missile (ABM) Treaty

Signed by the United States and the USSR in 1972, the Anti-Ballistic Missile (ABM) Treaty severely limits the deployment of national missile defenses. It is important to understand, however, that although the Missile Defense Act of 1995 establishes policies that eventually would require the ABM Treaty to be amended or replaced, it **does not advocate or require abrogation or violation of the Treaty**. The two relevant sections are described below.

- **Section 237** establishes a process for evaluating the long-term value of the Treaty and determining the best course of action with regard to amendments or other changes. It is recommended that the Senate undertake a one year review of the Treaty and that establishment of a select committee be considered as a vehicle for accomplishing such a review.

This provision also calls on the President to cease all discussions with the Russians regarding the ABM Treaty until the Senate has completed its review and issued its recommendations.

- **Section 238** addresses the important issue of determining which systems are and which systems are not covered by the ABM Treaty — commonly referred to as the Theater Missile Defense (TMD) demarcation issue. This section establishes that **TMD systems are not covered by the ABM Treaty unless flight tested against ballistic missiles that have a range in excess of 3,500 kilometers or exceed 5 km/sec — i.e., a strategic ballistic missile**. This "demonstrated standard" was first proposed by the Clinton Administration in November 1993 and accepted in principle by the Russians. This provision is intended to prevent the ABM Treaty from becoming a de facto TMD treaty. **The demarcation standard contained in Section 238 is consistent with the letter and spirit of the ABM Treaty.** [For a discussion of the TMD demarcation issue, see RPC's *Policy Analysis*, "Clarifying the ABM Treaty: An Administration About-Face?" 6/29/94.]

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